

# Law Office of Jack Silver

P.O. Box 5469 Santa Rosa, California 95402  
Phone 707-528-8175 Fax 707-528-8675  
jim28843@sbeglobal.net



***Via Certified Mail –  
Return Receipt Requested***

March 25, 2016

Mr. M. Cleve Morris, City Manager  
Members of the City Council  
City of Placerville  
City Clerk Department  
3101 Center Street  
Placerville, CA 95667

Site Manager  
Hangtown Creek Water Reclamation Facility  
2300 Coolwater Creek Road  
Placerville, CA 95667

**Re: Notice of Violations and Intent to File Suit Under the Clean Water Act**

Dear Mr. Morris, Members of the City Council and Site Manager:

## **STATUTORY NOTICE**

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 *et seq.*, that River Watch alleges are occurring as a result of operations at the City of Placerville's wastewater treatment plant, the Hangtown Creek Water Reclamation Facility ("Facility"), including its associated sewage collection system.

River Watch hereby places the City of Placerville ("the City"), as owner and operator of the Facility and its associated sewage collection system, on notice that following the expiration of 60 days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the City for continuing violations of an effluent standard or limitation, permit condition or requirement, or a Federal or State Order or Permit issued under CWA § 402, 33 U.S.C. § 1342, and the

Regional Water Quality Control Board, Central Valley District, Water Quality Control Plan ("Basin Plan"), as the result of alleged violations of permit conditions or limitations in the City's National Pollutant Discharge Elimination System ("NPDES") permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that any discharge of pollutants is prohibited with the exception of enumerated statutory exceptions (*see* CWA § 301(a), 33 U.S.C. § 1311(a)). One such exception authorizes a polluter, who has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition, such that violation of a NPDES permit limitation places a discharger in violation of the CWA.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* CWA § 402(b), 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the City's operations in the region at issue in this Notice is the Central Valley Regional Water Quality Control Board ("RWQCB-R5").

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the City with its NPDES permit.

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

**1. The Specific Standard, Limitation, or Order Alleged to Have Been Violated**

River Watch identifies in this Notice the City's alleged violations of permit conditions or limitations set forth in RWQCB Order No. R5-2008-0054, re-adopted (as amended) in

August of 2014 by Order No. R5-2014-0015-001, NPDES No. CA0078956 (*Waste Discharge Requirements for the City of Placerville, Hangtown Creek Water Reclamation Facility, El Dorado County*), referred to in this Notice as “the NPDES permit.” A violation of the NPDES permit is a violation of the CWA. The City is also a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ (“Statewide WDR”) governing the operation of sanitary sewer systems. Failure to comply with the Statewide WDR is a major cause of sewage system overflows (“SSOs”). The Statewide WDR is fully incorporated in Order No. R5-2014-0015-001.

## **2. The activity alleged to constitute a violation.**

Most often, the NPDES permit standards and limitations allegedly violated are self-explanatory, and an examination of the language of the NPDES permit itself is sufficient to inform the City of its failure to fully comply with the permit requirements. This is particularly so since the City is responsible for monitoring its operations to ensure compliance with all permit conditions. River Watch sets forth the following narratives, which identify with particularity the activities alleged to be violations. River Watch does so following a review of public records (e.g. the City’s Self-Monitoring Reports and the California Integrated Water Quality System (“CIWQS”) reporting system) relating to operations at the Facility and through its associated collection system. Additional records and other public documents in the City’s possession or otherwise available to the City regarding its NPDES permit and collection system may, upon discovery, reveal additional violations.

River Watch contends that from March 22, 2011 through March 22, 2016, the City violated the Act and the following identified requirements of its Permit with respect to its effluent discharge and the operation of its sewage collection system. The following prohibitions apply to the City:

- Discharge Prohibition III.A – “Discharge of wastewater at a location or in a manner different from that described in this Order is prohibited.”
- Discharge Prohibition III.B – “The by-pass or overflow of wastes to surface waters is prohibited [with identified exceptions].”
- Discharge Prohibition III.C. – “Neither the discharge nor its treatment shall create a nuisance as defined in section 12050 of the [California] Water Code.”

a. Violations of Effluent Limitations

The City's Self-Monitoring Reports ("SMRs") identify the following violations (by violation number, date of alleged violation, and pollutant) of effluent limitations imposed under the NPDES permit:

910647	(08/31/2011)	<b>zinc</b>
916904	(10/27/2011)	<b>zinc</b>
919497	(11/30/2011)	<b>zinc</b>
937793	(07/19/2012)	<b>zinc</b>
943744	(10/30/2012)	<b>zinc</b>
943748	(11/30/2012)	<b>zinc</b>
948222	(01/07/2013)	<b>zinc</b>
963086	(07/01/2013)	<b>zinc</b>
956489	(07/31/2013)	<b>zinc</b>
961761	(10/31/2013)	<b>zinc</b>
964753	(11/30/2013)	<b>zinc</b>
964754	(12/31/2013)	<b>zinc</b>
970398	(01/31/2014)	<b>zinc</b>
966923	(02/28/2014)	<b>zinc</b>
991749	(09/16/2014)	<b>zinc</b>
991750	(09/30/2014)	<b>zinc</b>
991751	(10/31/2014)	<b>zinc</b>
991752	(12/31/2014)	<b>zinc</b>
991753	(01/20/2015)	<b>zinc</b>
991754	(01/31/2015)	<b>zinc</b>
992013	(04/30/2015)	<b>zinc</b>
992532	(05/06/2015)	<b>zinc</b>
992533	(05/31/2015)	<b>zinc</b>
927804	(04/21/2012)	<b>temperature</b>
991492	(04/25/2015)	<b>temperature</b>
946080	(02/11/2013)	<b>ammonia</b>
946604	(01/31/2013)	<b>chronic toxicity</b>
991755	(05/24/2014)	<b>monitoring</b>
991756	(07/19/2014)	<b>monitoring</b>

This Notice will be updated to reflect additional violations reported by the City on its SMRs.

b. Collection System Surface Discharges Caused by Sanitary Sewer Overflows

Sanitary Sewer Overflows ("SSOs"), in which untreated sewage is discharged above ground from the collection system prior to reaching the Facility, are alleged to have occurred both on the dates identified in the CIWQS Public SSO Reports and on dates when no reports were filed by the City. Twenty-nine (29) violations with a combined volume of at least 27,608 gallons are reported by the RWQCB-R5 during the period March 22, 2011 to March 22, 2016, evidenced in the CIWQS SSO Reporting Database Records. River Watch contends these violations are continuing in nature or have a likelihood of occurring in the future.

Discharges to Surface Waters. River Watch's expert believes and River Watch alleges that many of the SSOs reported by the City as having been contained without reaching a surface water did in fact discharge to surface waters, and those reported as partially reaching surface waters did so in greater volume than stated. The claim of full containment is further called into question by the fact that some of the City's SSO reports state the estimated start time of the SSO as later than the City's time when the reporting party first noticed the SSO. Studies have shown that most SSOs are noticed significantly after they have begun. The City reports that some of the discharges reach a storm drain, but fails to determine the accurate amounts which reach a surface water.

The Statewide WDR requires that sewer system operators report SSOs to the CIWQS and include in that reporting an estimate of the volume of any spill, the volume recovered, and the volume which reached a surface water. The City's reports generally do not indicate what method was used to estimate the total volume of the spill, which further calls into question the estimates of volume recovered and volume reaching surface waters. River Watch contends that the City is grossly underestimating the incidence and volume of SSOs that reach surface waters.

The Statewide WDR requires the City to take all feasible steps and perform necessary remedial actions following the occurrence of a SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site.

One of the most important remedial measures is the performance of adequate sampling to determine the nature and the impact of the release. As the City is severely underestimating SSOs which reach surface waters, River Watch contends the City is not conducting sampling on most SSOs.

A careful review of the above indicates that given the unlikely accuracy of the times given on these reports, it is difficult to consider the stated volumes as accurate. As the volume of SSOs of any significance is estimated by multiplying the estimated flow rate by the duration of the spill event, the practice of estimating a later than actual start time results in underestimating both the duration and the volume of a spill.

Estimating Volume. River Watch's expert has also determined that the City's method for estimating flow rate underestimates the volume of a SSO. A review of the service records calls into question the City's methodologies for determining the volume of SSOs captured. The City's reports generally do not indicate what method was used to estimate the total volume of the spill, which further calls into question the estimates of volume recovered and volume reaching surface waters. River Watch contends that the City is grossly underestimating the incidence and volume of SSOs that reach surface waters.

Mitigating Impacts. River Watch contends the City also fails to adequately mitigate the impacts of SSOs. The Statewide WDR mandates that the permittee shall take all feasible steps to contain and mitigate the impacts of a SSO. The EPA's *Report to Congress on the Impacts of SSOs* identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous critical habitat areas exist within the areas of the City's SSOs. There is no record of the City performing any analysis of the impacts of SSOs on critical habitat of protected species under the federal Endangered Species Act ("ESA"), nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

c. Collection System Subsurface Discharges Caused by Underground Exfiltration

It is also a well-established fact that exfiltration caused by pipeline cracks and other structural defects in a collection system result in discharges to adjacent surface waters via underground hydrological connections.

River Watch contends untreated sewage is discharged from cracks, displaced joints eroded segments, etc., of the City's collection system into groundwater hydrologically connected to surface waters, including tributaries of Hangtown Creek such as Weber Creek and the South Fork of the American River. Surface waters become contaminated with pollutants including human pathogens. Chronic failures in the collection system pose a

substantial threat to public health.

Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.<sup>1</sup>

Evidence of exfiltration can also be supported by reviewing mass balance data, “inflow and infiltration” (“I/I”) data, video inspection, as well as tests of waterways adjacent to sewer lines for nutrients, human pathogens, and other human markers such as caffeine. Any exfiltration found from the City is a violation of the NPDES permit and thus the CWA. During the course of discovery River Watch will test surface waters adjacent to sections of the City’s collection system to determine the location and extent of exfiltration.

d. Nuisance; Impact to Beneficial Uses

The City’s NPDES permit prohibits the discharge of wastes that lead to the creation of a “nuisance” as defined under the California Water Code. The term “nuisance” is defined in California Water Code § 13050(m) as anything which meets all of the following requirements: 1) “is injurious to health, or is indecent or offensive to the senses . . . so as to interfere with the comfortable enjoyment of life or property;” 2) “affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal” and, 3) “occurs during, or as a result of, the treatment or disposal of wastes.”

Tributaries of Hangtown Creek, have many beneficial uses as defined in the RWQCB-R5's Basin Plan. SSOs reaching Hangtown Creek, Weber Creek, the South Fork of the American River, Folsom Lake or its tributaries cause prohibited pollution by unreasonably affecting the beneficial uses of these waters. The City is also required by its NPDES Permit to comply with narrative standards as set forth in the Basin Plan, used when testing by numeric standards would be inadequate or impractical. Narrative Standards include:

- The discharge shall not cause the pH of the receiving waters to be depressed below 6.5 nor raised above 8.5.
- The discharge shall not cause the annual average ambient temperature to be increased by more than 5°F and the discharge to cause exceedance of the following limitations in Hangtown Creek at Monitoring Location RSW-002: 1 December through 30 April

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<sup>1</sup> See the Report of Human Marker Study issued in July of 2008 and conducted by Dr Michael L. Johnson, U.C. Davis water quality expert, performed for the City of Ukiah, finding the presence of human derived bacteria in two creeks adjacent to defective sewer lines.

weekly average of 58°F; 1 May through May 31 weekly average of 67°F; 1 June through 15 October instantaneous maximum 77°F and weekly average 72°F; 16 October through 30 November weekly average of 67°F.

- The discharge shall not cause the dissolved oxygen monthly median of the mean daily dissolved oxygen concentration to fall below 85 percent of saturation in the main water mass; the 95 percentile dissolved oxygen concentration to fall below 75 percent of saturation; nor the dissolved oxygen concentration to be reduced below 7.0 mg/L at any time.
- The discharge shall not cause discoloration that causes nuisance or adversely affects beneficial uses.
- The discharge shall not cause taste-or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin that cause nuisance, or that adversely affect beneficial uses.
- The discharge shall not cause oils, greases, waxes or other materials in concentrations that result in a visible film or coating on the water surface or on objects in the water that cause nuisance or that otherwise adversely affect beneficial uses.

River Watch has found nothing in the public record to demonstrate that the City has monitored for and complied with these narrative standards. River Watch is understandably concerned regarding the effects of both surface and underground SSOs on beneficial uses applicable to Hangtown Creek, Weber Creek, the South Fork of the American River and Folsom Lake.

**3. The person or persons responsible for the alleged violation.**

The entity responsible for the alleged violations identified in this Notice is the City of Placerville as owner and operator of the Facility and its associated collection system, as well as City's employees responsible for compliance with the City's NPDES Permit and the CWA.

**4. The location of the alleged violation.**

The location or locations of the various violations are identified in records created and/or maintained by or for the City which relate to the Facility and related activities as described in this Notice.



The City of Placerville is located in the heart of California's Gold Country, approximately 100 miles northeast of San Francisco. As of 2012, the City had approximately 2,709 residential and 532 commercial sewer connections. The minimum pipe size for the collection system is 4-inch diameter with a maximum pipe diameter of 24 inches. Most of the sewer system is small diameter pipe, 8-inches in diameter or less. Approximately 93 percent of the system is small or moderate sized (12-inch or smaller). Just over 15 percent of the wastewater system was constructed over 60 years ago (1940s or earlier). If the pipeline constructed in the 1950s is included, then about a quarter of the system (23.6 percent) has reached its useful life or is just about near the end of its useful life. Additionally, about 50 percent of the system was built in the 1960s and 1970s. By the end of the year 2030, over 75 percent of the system will be over 50 years old and a full quarter of it will be older than 75 years. Some of the pipeline materials used to construct the wastewater collection system are also of concern. Over 50 percent of the City's wastewater system is constructed using Transite (AC) pipe. Based on the brittle nature of Transite pipe, the useful life of this material should be reduced to about 30 years. Orangeburg (ORG) pipe, also used, has failed in some sites within the City and is known to be a poor product based on the experience of other agencies in the area.

The City of Placerville is the owner and operator of the Facility, a wastewater collection and treatment system located at 2300 Coolwater Creek Road in Placerville. The Facility serves the City of Placerville and a portion of EL Dorado County and provides sewer treatment to over 3,500 residential and commercial accounts. Built in 1960, the Facility was previously upgraded in 1976, with minor improvements in the 1980s and 1990s. A complete plant renovation was required to comply with new waste discharge requirements, a cease and desist order adopted in the State of California, and U.S. EPA municipal sludge treatment requirements. Improvements also were necessary to reduce operating costs and address health and safety concerns. In 2008, the City completed a \$45 million Facility upgrade project to provide the necessary treatment. The tertiary treatment facility includes secondary biological treatment, tertiary pressure filtration, chlorination, and dechlorination. The NPDES permit allows the Facility to discharge up to 2.3 million gallons per day of tertiary treated municipal sewage to the receiving water, Hangtown Creek – a water of the United States. Flows as of 2013 were estimated at 1.0 mgd average day dry weather flow.

The City's Public Works Department operates and maintains approximately 53 miles of sewer lines within city limits. The wastewater collection system serves approximately 10,000 people in a service area encompassing approximately 3,750 acres. The sphere of influence includes an additional area of approximately 2,550 acres for a total future service area of about 6,300 acres. The system is composed of gravity flow pipelines, manholes, 5 pumping stations, and pressure force mains. Three of the pumping stations are equipped with fixed backup power generators. The other two serve parks and can only be without power

for limited times without creating problems or allowing SSOs. Some pumping stations are called lift stations since the pumps “lift” and discharge the water into a nearby gravity pipeline at a higher elevation a short distance away from the pumping station. All of the lift stations are equipped with constant speed pumps. The majority are wet pit/dry pit pumping stations which have a separate wet well from the “dry pit” where the pumps, motors, and electrical controls are located. Manholes are placed in the collection system at each junction of two or more pipes. Sanitary sewer laterals are mostly 4-inch diameter PVC pipe. Property owners are responsible for the maintenance of the sewer laterals to the connection with the sewer mainline.

Hangtown Creek flows west from its headwaters near the Smith Flat area through Placerville to its confluence with Weber Creek approximately one mile downstream from the western corporate limit of the City near the Facility. Weber Creek joins the South Fork of the American River and enters Folsom Lake making it an important line in the western watershed system of the Sierra Nevada. As a major tributary to Weber Creek, the vitality of Hangtown Creek has a significant impact on the health of the South Fork of the American River watershed.

The Hangtown Creek Watershed is located on the west slope and lower foothills of the Sierra Nevada Mountains encompassing 6,079 acres in western El Dorado County, a portion of which is included in the city limits of Placerville. Hangtown Creek flows through a moderately steep, relatively narrow valley bordered by exposed granitic rocks, and steeply dipping, faulted and folded metamorphic sequences. Stream patterns result from the confined, laterally controlled valley that physically caused Hangtown Creek to be channelized in certain areas. Numerous tributaries drain into Hangtown Creek from the north and south including Randolph Canyon, Cedar Ravine, and Hangtown Creek Tributary. Waters entering Hangtown Creek from these tributaries are joined by underground sources from the ridges to the north and south.

The Hangtown Creek Watershed includes a large variety of wildlife habitat. Woodland habitats are the most prominent. The riparian woodland occurs at each end of the Creek. Where the natural channel extends from Jaquier Road to Broadway Road, the stream displays canopy cover with large, mature, native trees such as alder, big leaf maple, incense cedar, ponderosa pine, douglas fir, blue oak, and willow that serve as habitat for wildlife. This same canopy exists downstream from the Facility to the confluence with Weber Creek. Above and below the rural reaches, a riverine habitat exists within a grout and rip-rap lined channel. Within the City, the viable creek ecosystem is frequently compromised by encroaching man-made structures such as impervious surfaces, commercial buildings, and U-shaped channels that serve to degrade aquatic environments.

The City is honeycombed with abandoned quartz mines. The shafts and tunnels of the mines collect and hold underground water like cisterns.

Wildlife alongside Hangtown Creek, classified by the California Department of Fish & Wildlife as a Class I Rainbow Trout Fishery, is varied. The stream is documented by the California Department of Fish and Wildlife as a wildlife migration corridor, particularly near the Placerville Drive on ramp to Highway 50. Species in the Hangtown Creek watershed include California wood ducks, mule or black-tailed deer, coyote, bobcat, and raccoon, striped skunk, lizards, toads, snakes, and tree frogs, among 125 different species of mammals, birds, reptiles, amphibians, fish, and plants. Rare, endangered, and protected wildlife species also inhabit the stream corridor.

The most likely federally threatened species to be found in proximity to Hangtown Creek are the red-legged frog (*rana aurora dratonii*) and the ringtail cat (*Bassariscus astutus*). The red-legged frog generally inhabits quiet pools along streams such as Hangtown Creek while the ring-tail cat also prefers rock or brush near water. California and federal Species of Special Concern include the California mountain (*rana muscosa*) and foothill yellow-legged frog (*rana boylei*). Protected species such as the horned lizard and the San Joaquin whipsnake can also be found in grassland habitats proximal to the wetted stream. Fifty-two Special Status Species are documented for El Dorado County. Almost 70 species are documented by the California Department of Fish & Wildlife Natural Diversity Database.

**5. The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.**

The range of dates covered by this Notice is March 22, 2011 to March 22, 2016. River Watch may from time to time update this Notice to include all violations of the CWA by the City which occur during and after this period. Some violations are continuous, and therefore each day constitutes a violation

**6. The full name, address, and telephone number of the person giving notice.**

The entity giving Notice is California River Watch, referred to herein as "River Watch." River Watch is an IRC § 501(c)(3) non-profit, public benefit Corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. The mailing address of River Watch's northern California office is 290 S. Main Street, #817, Sebastopol, CA 95472. The mailing address of River Watch's southern California office is 7401 Crenshaw Blvd. #422, Los Angeles, CA 90043. River Watch is dedicated to protecting, enhancing, and helping to restore surface and ground waters of California including rivers, creeks streams, wetlands, vernal pools, aquifers

and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs. River Watch members residing and recreating in the area of the Facility and the surrounding watershed have a vital interest in bringing the City's operations at the Facility and associated sewage collection system into compliance with the CWA.

River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed to:

Jack Silver, Esq.,  
Law Office of Jack Silver  
P.O. Box 5469  
Santa Rosa, CA 95402-5469  
Tel. 707-528-8175  
Email: [lh28843@sbcglobal.net](mailto:lh28843@sbcglobal.net)

David J. Weinsoff, Esq.  
Law Office of David J. Weinsoff  
138 Ridgeway Avenue  
Fairfax, CA 94930  
Tel. 415-460-9760  
Email: [david@weinsofflaw.com](mailto:david@weinsofflaw.com)

## **RECOMMENDED REMEDIAL MEASURES**

### **I. DEFINITIONS**

- A. *Condition Assessment*: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for gravity mains, manhole inspections for structural defects, and inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade based on the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the "National Association of Sewer Service Companies." The PACP is a nationally recognized sewer pipeline condition rating system for CCTV inspections.
- B. *Full Condition Assessment*: A Condition Assessment of all sewer lines in the sewer collection system with the exception of sewer lines located within 200 feet of surface waters.
- C. *Surface Water Condition Assessment*: A Condition Assessment of sewer lines in the sewer collection system located within 200 feet of surface waters, including gutters, canals and storm drains which discharge to surface waters.
- D. *Significantly Defective*: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage

of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

- 5 – Most significant defect
- 4 – Significant defect
- 3 – Moderate defect
- 2 – Minor to moderate defect
- 1 – Minor defect

## II. REMEDIAL MEASURES

### A. *Sewage Collection System Investigation and Repair*

1. The repair or replacement, within two (2) years, of all sewer lines in the City's sewage collection system located within two hundred (200) feet of surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the past ten (10) years and were rated as Significantly Defective or given a comparable assessment.
2. Within two (2) years, the completion of a Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past ten (10) years.
3. Within two (2) years after completion of the Surface Water Condition Assessment above, the City will:
  - i. Repair or replace all sewer lines found to be Significantly Defective;
  - ii. Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if in the City's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced;
  - iii. Ensure that sewer pipe segments containing defects with a rating of 3 on the PACP rating system that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment are re-CCTV'd every five (5) years to ascertain the condition of the sewer line segment. If the City determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the City

shall complete the repair or replacement within two (2) years after the last CCTV cycle;

- iv. Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, commence a Full Condition Assessment to be completed within seven (7) years. Any sewer pipe segment receiving a rating of 4 or 5 based on the PACP rating system shall be repaired or replaced within three (3) years of the rating determination; and,
- v. Implement, through the City's Capital Improvements Plan, a program to provide a Condition Assessment of all sewer lines at least every five (5) years. This program shall begin one (1) year following the Full Condition Assessment described above.

**B. *SSO Reporting and Response***

- 1. Modification of the City's Backup and SSO Response Plan to include the following in its reports submitted to the CIWQS Reporting System:
  - i. The method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered;
  - ii. For Category I Spills, creation of a listing of nearby residences or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained (such as from a caller who provides information that brackets a given time that the SSO began);
  - iii. Photographs of the manhole flow at the SSO site to aide in establishing the spill volume.
- 2. Water quality sampling and testing to be required whenever it is estimated that fifty (50) gallons or more of untreated or partially treated wastewater enters surface waters. Constituents tested for to include: Ammonia, Fecal Coliform, E. coli and a CAM-17 toxic metal analysis. The City shall collect and test samples from three (3) locations: the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. If any of the constituents are found at higher levels in the point of discharge sample and the downstream sample than in the upstream sample, the City will determine and address the cause of the SSO that enters surface waters, and

employ the following measures to prevent future overflows: (a) if the SSO is caused by a structural defect, immediately spot repair the defect or replace the entire line; (b) if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, perform additional maintenance or cleaning to address and correct the defect.

3. Creation of website capacity to track information regarding SSOs or, in the alternative, the creation of a link from the City's website to the CIWQS SSO Public Reports. Notification to be given by the City to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.
4. Performance of human marker sampling on creeks, rivers, wetlands and areas of Hangtown Creek and Weber Creek, and other tributaries adjacent to sewer lines, to test for sewage contamination from exfiltration.

C. *Lateral Inspection/repair Program*

1. Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:
  - i. Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within ten (10) years prior to the transfer;
  - ii. The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;
  - iii. A change of the use of the structure served (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, and (c) to nonresidential uses where the structure served has been vacant or unoccupied for more than three (3) years;
  - iv. Upon replacement or repair of any part of the sewer lateral;
  - v. Upon issuance of a building permit with a valuation of \$25,000.00 or more; or,
  - vi. Upon significant repair or replacement of the main sewer line to which the lateral is attached.

D. *Narrative Standard Compliance*

The City shall develop and implement a means for verifying compliance with the narrative standards in its NPDES permit, specifically Section V. Receiving Water Limitations, and Section A. Surface Water Limitations.

**CONCLUSION**

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and/or recreate in the affected communities identified. Members of River Watch use the affected watershed for recreation, sports, fishing, swimming, hiking, photography, nature walks and/or the like. Their health, use, and enjoyment of this natural resource are specifically impaired by the City's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including a governmental instrumentality or agency, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 – 19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day "notice period"** to promote resolution of disputes. River Watch strongly encourages the City to contact River Watch within **20 days** after receipt of this Notice Letter to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the City is in compliance with the strict terms and conditions of its permit and the CWA, River Watch will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,



Jack Silver

JS:lhbm



*Service List*

✓ Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne St.  
San Francisco, CA 94105

Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812

Executive Officer  
California Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670-6114

City Attorney  
City of Placerville  
3101 Center Street  
Placerville, CA 95667